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filing claims or bar designated personnel from considering, ascertaining, adjusting, determining, and authorizing payment of claims otherwise falling within the provision of these regulations when such claim accrued prior to separation or termination.

(5) *Agent or legal representative.* The authorized agent or legal representative of a proper claimant may file on behalf of the claimant if the agent provides a power of attorney that complies with local law. Certain relatives of a deceased proper claimant may file any claim the claimant could have filed. The PCA identifies these relatives in order of priority. If multiple persons who the statute lists as equals in priority file separate claims, the first claim settled extinguishes the rights of the other claimants. The estate of a deceased proper party claimant is not a proper claimant, nor is an executor or personal representative who cannot file as a survivor. The PCA ranks surviving relatives in the following order of priority:

- (i) Spouse;
- (ii) Child or children;
- (iii) Father, mother, or both;
- (iv) Brother, sister, or both.

(b) *Improper claimants.* Insurers, assignees, subrogees, vendors, lienholders, contractors, subcontractors and their employees, and other persons not specifically mentioned as proper claimants.

(c) *Unusual occurrence.* Serious events and natural disaster not expected to take place in the normal course of events and hazards outside the normal risks of day-to-day living and working. Two different types of incidents may be considered unusual occurrences: those of an unusual nature and those of a common nature that occur to an unexpected degree of severity. Examples of unusual occurrences include structural defects in quarters, faulty plumbing maintenance, termite or rodent damage, unusually large size hail, and hazardous health conditions due to Government use of toxic chemicals. Examples of occurrences that are not unusual include potholes or foreign objects in the road, ice and snow sliding off a roof onto a vehicle, and tears, rips, snags, or stains on clothing. Claims that electrical or electronic de-

vices were damaged by a power surge may be paid when lightning has actually struck the claimant's residence or objects outside the residence, such as a transformer box, or when power company records or similar evidence shows that a particular residence or group of residences was subjected to a power surge of unusual intensity. In areas subject to frequent thunderstorms or power fluctuations, claimants are expected to use surge suppressors, if available, to protect delicate items such as computers or videocassette recorders.

(d) *Personal property.* Property including but not limited to household goods, unaccompanied baggage, privately owned vehicles (POV's), mobile homes, and boats.

(e) *Intangible property.* Property that has no intrinsic marketable value such as bankbooks, checks, promissory notes, non-negotiable stock certificates, bonds, baggage checks, insurance policies, money orders, and travelers checks.

(f) *Vehicles.* Include automobiles, motorcycles, mopeds, jet skis, utility trailers, camping trailers, trucks, mounted camper bodies, motor homes, boats, boat trailers, bicycles, and aircraft. Mobile homes and other property used as dwelling places are not considered vehicles.

[57 FR 5055, Feb. 12, 1992, as amended at 72 FR 53422, Sept. 19, 2007]

### § 751.6 Claims payable.

Claims for loss, damage, or destruction of property may be considered as set out below if possession of the property was reasonable and useful under the circumstances and the loss did not result from the negligence of the claimant. The following are examples of more common claims. Not all situations that may result in a claim are covered, but the processes described in the examples on how to approach, investigate, and adjudicate claims are applicable to all claims filed.

(a) *Transportation and storage losses.* (1) Incurred during transportation under orders, whether in possession of the Government, carrier, storage warehouse, or other Government contractor.

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(2) Incurred during travel under orders, including temporary duty.

(3) Incurred during travel on a space available basis on a military aircraft, vessel, or vehicle.

(4) *Do-it-yourself (DITY) moves.* In certain circumstances, loss of or damage to property during a DITY move is compensable. Claimants, however, are required to substantiate the fact of loss or damage in shipment. Claimants who do not prepare inventories have difficulty substantiating thefts. In addition, unless evidence shows that something outside the claimant's control caused the damage, breakage is presumed to be the result of improper packing by the claimant. For example, if a claimant's truck is rear-ended by a drunk driver during a DITY move, it is out of claimant's control. If the claimant can substantiate that he was free from negligence, he can file a claim for damages to his household goods.

(5) *Shipment or storage at the claimant's expense.* The Government will not compensate a claimant for loss or damage that occurs while property is being shipped or stored at the claimant's expense, even if the Government reimburses the claimant for the shipment or storage fees. The reason for this is that there is no contract, called a Government Bill of Lading, between the Government and the carrier. In such cases, the claimant must claim against the carrier.

(b) *Losses at assigned quarters or other authorized places.* Damage or loss caused by fire, explosion, theft, vandalism, lightning, flood, earthquake, and unusual occurrences is cognizable. Losses due to theft may only be paid if the claimant took reasonable measures to safeguard the property and theft occurred as a result of a forced entry. Claimants are expected to secure windows and doors of their barracks, quarters, wall lockers, and other storage areas so that the thief must force an entry. If a police report states that there were no signs of forced entry and the claimant asserts with absolute certainty that the area was in fact secure, the claims examiner must consider whether forced entry would have left visible signs. Claimants are also expected to take extra measures to protect cash, valuable jewelry, and similar

small, easily pilferable items. Normally, such items should be kept in a locked container within a secured room. It is also advisable that the locked container be large enough that it is not convenient for a thief to carry off. Bicycles located at quarters or on base must be secured to a fixed object. Overseas housing is considered assigned quarters for claimants who are not local inhabitants.

(c) *Vehicle losses.* (1) Losses incurred while a vehicle is used in the performance of a military duty, if such use was authorized or directed for the convenience of the Government, provided the travel did not include commuting to or from a permanent place of duty, and did not arise from mechanical or structural defect of the vehicle. There is no requirement that the loss be due to fire, flood, hurricane, or other unusual occurrence, or to theft or vandalism. As a general rule, however, travel is not considered to be for the convenience of the Government unless it was pursuant to written orders authorizing use for which the claimant is entitled to reimbursement. The claimant must be free from negligence in order to be paid for a collision loss. Travel by the claimant to other buildings on the installation is not loss. Travel by the claimant to other buildings on the installation is not considered to be under orders for the convenience of the Government. Travel off the installation without written orders may only be deemed to be for the convenience of the Government if the claimant was authorized mileage reimbursement for the travel. The issuance of written orders after the fact raises the presumption that travel was not authorized for the convenience of the Government. The maximum payment authorized by the Allowance List-Depreciation Guide (ALDG) still applies to loss of or damage to vehicles and contents. This maximum does not apply to DITY moves.

(2) Losses incurred while a vehicle is shipped at Government expense are compensable provided the loss or damage did not arise from mechanical or structural defect of the vehicle during such shipment. Damage caused during shipment at the claimant's expense or while the vehicle is being moved to or

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from the port by an agent of the claimant is not compensable.

(3) Losses incurred while a vehicle is located at quarters or other authorized place of lodging, including garages, carports, driveways, assigned parking spaces, if the loss or damage is caused by fire, flood, hurricane, theft, or vandalism, or other unusual occurrence. Vandalism is damage intentionally caused. Stray marks caused by children playing, falling branches, gravel thrown by other vehicles, or similar occurrences are not vandalism. The amount payable on vandalism claims is limited to the maximum payment authorized by the ALDG.

(4) Incurred while a vehicle is located at places other than quarters but on a military installation, if the loss or damage is caused by fire, flood, hurricane, theft, or vandalism, or other unusual occurrence. "Military installation" is used broadly to describe any fixed land area, wherever situated, controlled, and used by military activities or the Department of Defense (DOD). A vehicle properly on the installation should be presumed to be used incident to the claimant's service. A vehicle that is not properly insured or registered in accordance with local regulations is not properly on the installation. A vehicle left in a remote area of the installation that is not a designated long-term parking area for an undue length of time is presumed not to be on the installation incident to service.

(5) *Theft of property stored inside a vehicle.* A loss resulting from theft of property stored inside a vehicle is compensable if it was reasonable for the claimant to have the property in the vehicle and neither the claimant nor the claimant's agents were negligent in protecting the property. Neither the passenger compartment nor the trunk of a vehicle is a proper place for the long-term storage of property unconnected with the use of the vehicle. The passenger compartment of a vehicle does not provide adequate security, except for very short periods of time for articles that are not of high value or easily pilferable. Car covers and bras are payable if bolted or secured to the vehicle with a wire locking device.

(6) *Rental vehicles.* Damage to rental vehicles is considered under paragraphs of the Joint Federal Travel Regulations (JFTR), rather than as a loss incident to service.

(d) *Mobile homes and contents in shipment.* Claims for damage to mobile homes and contents in shipment are payable unless the damage was caused by structural or mechanical defects or by the claimant's negligence in securing the mobile home or packing its contents.

(e) *Borrowed property (including vehicles).* Loss or damage to borrowed property is compensable if it was borrowed for claimant's or dependent's own use. A statement will be provided by the owner of the property attesting to the use of the property by the claimant.

(f) *Clothing and articles being worn.* Repairs/replacement of clothing and articles being worn while on a military installation or in the performance of official duty may be paid if loss is caused by fire, flood, hurricane, theft, or vandalism, or other unusual occurrence. This paragraph shall be broadly construed in favor of compensation, but see § 751.5(c) for the definition of unusual occurrence. Articles being worn include hearing aids, eyeglasses, and items the claimant is carrying, such as a briefcase.

(g) *Personal property held as evidence or confiscated property.* If property belonging to the victim of a crime is to be held as evidence for an extended period of time (in excess of 2 months) and the temporary loss of the property will work a grave hardship on the claimant, a claim for the loss may be considered for payment. This provision will not be used unless every effort has been made to determine whether secondary evidence, such as photographs, may be substituted for the item. No compensation is allowed to a person suspected of an offense for property seized from that same person in the investigation of that offense. This also applies to property a foreign government unjustly confiscates or an unjust change in a foreign law that forces surrender or abandonment of property.

(h) *Theft from possession of claimant.* Theft from the person of the claimant is reimbursable if the theft occurred by use of force, violence, or threat to do

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bodily harm, or by snatching or pickpocketing, and at the time of theft the claimant was either on a military installation, utilizing a recreation facility operated or sponsored by the Department of Defense or any agency thereof, or in the performance of official duty. The theft must have been reported to appropriate police authorities as soon as practicable, and it must have been reasonable for the claimant to have had on his person the quality and the quantity of the property allegedly stolen.

(i) *Property used for the benefit of the Government.* Compensation is authorized where property is damaged or lost while being used in the performance of Government business at the direction or request of superior authority or by reason of military necessity.

(j) *Money deposited for safekeeping, transmittal, or other authorized disposition.* Compensation is authorized for personal funds delivered to and accepted by military and civilian personnel authorized by the commanding officer to receive these funds for safekeeping, deposit, transmittal, or other authorized disposition, if the funds were neither applied as directed by the owner nor returned to the owner.

(k) *Fees—(1) For obtaining certain documents.* The fees for replacing birth certificates, marriage certificates, college diplomas, passports, or similar documents may be allowed if the original or a certified copy is lost or destroyed incident to service. In general, compensation will only be allowed for replacing documents with a raised seal that are official in nature. No compensation will be allowed for documents that are representative of value, such as stock certificates, or for personal letters or records.

(2) *Estimate fees.* An estimate fee is a fixed cost charged by a person in the business of repairing property to provide an estimate of what it would cost to repair property. An estimate fee in excess of \$75.00 should be examined with great care to determine whether it is reasonable. A person becomes obligated to pay an estimated fee when the estimate is prepared. An estimate fee should not be confused with an appraisal fee, which is not compensable (see § 751.7(m)). A reasonable estimate

fee is compensable if it is not going to be credited toward the cost of repair. If it is to be credited toward the cost of repair, it is not compensable regardless of whether the claimant chooses to have the work done. When an estimate fee is claimed, the file must reflect whether the fee is to be credited.

[57 FR 5055, Feb. 12, 1992, as amended at 72 FR 53422, Sept. 19, 2007]

### § 751.7 Claims not payable.

(a) *Losses in unassigned quarters in the United States.* Claims for property damaged or lost at quarters occupied by the claimant within the United States that are not assigned or otherwise provided by the Government.

(b) *Currency or jewelry shipped or stored in baggage.* Claims for lost currency, shipped or stored in baggage are not payable. Small, valuable, highly pilferable items should normally be hand-carried rather than shipped, however, if expensive or valuable jewelry or coin collections are shipped, a full description of each item of expensive jewelry and of any coin or money collection must be listed and described on the inventory for its loss to be payable. Each item must also be listed as missing at the time of delivery. If not noted at the time of delivery, the claimant must satisfactorily explain why.

(c) *Enemy property or war trophies.* This includes only property that was originally enemy property or a war trophy that passed into the hands of a collector and was then purchased by a claimant.

(d) *Unserviceable or Worn-Out Property.*

(e) *Loss or damage to property to the extent of any available insurance coverage.* Except for claims for loss or damage to household goods or privately-owned vehicles (POVS) while shipped or stored at Government expense, when the property lost, damaged, or destroyed is insured, the claimant must make a demand for payment against the insurance company under the terms of the policy.

(f) *Inconvenience or loss of use.* Expenses arising from late delivery of personal property, including but not limited to the expenses for food, lodging, and furniture rental, loss of use, interest, carrying charges, attorney's